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Factors that might influence elections' outcome

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1. Significance of new elections

Albeit July 10 new local elections in 14 localities are viewed as quite passive, their significance is hard to underestimate. There are several factors worth considering when estimating elections' outcome, namely: a) inert voter sympathies; b) "Gagauz syndrome"; c) "national consensus"; d) low voter turnout, which increase the ratio of the "low mobility voters". Let's consider each of them in greater detail:

- a. In the three electoral cycles since independence, local elections were usually held one or two years after parliamentary elections and they greatly resembled the results as parliamentary ones. This observation is more or less valid for the elections of rayon/county councils. The same voter preferences over time are due to the fact that both councillors and MPs are elected on party lists. Depersonalisation of the candidates on the list also greatly contributes to that, they are rather identified with the electoral symbol of the party or its leader. In addition, the inertness of electoral sympathies happened at times of relative political and socio-economic stability following parliamentary elections.

As for the mayor elections, the overlap with parliamentary elections results is much lower. And this because the majoritarian electoral system used for mayor elections, besides the rating of the parties also highlights the personal qualities of the contestants.

- b. One of the most interesting phenomena produced in the recent parliamentary elections was the so-called "Gagauz syndrome". This specifically refers to significant regress of the Party of Communists' (PC) rating in the Gagauz-Yeri region from 80% in 2001 to mere 30% in 2005. A slight regress has been registered practically in all the regions heavily populated by national minorities (Bulgarians in Taraclia, Ukrainians at the North), including Chisinau. Certainly, "Gagauz syndrome" stems from the change in foreign policy, in particular worsening relations between Republic of Moldova and Russian Federation. However, this factor should not be generalized for the entire country, as in Gagauzia it was triggered, among others, by the referendum on ousting Gagauz Governor in 2002 and claims of opposition harassment.
- c. Following March 2005 parliamentary elections, the main event that outraged public opinion was "constructive" opposition's support to Voronin re-election as the President of the Republic of Moldova. The so-called "constructive opposition" argued their decision by the need to consolidate "national consensus" in view of European integration and Transdnistrian conflict resolution. Still, one of the "national consensus" side-effects was the outburst of internal conflicts within the two opposition parties - Social-Liberal Party

and Christian-Democratic Peoples' Party, coupled with a negative media campaign against the two. This specifically refers to Christian-Democrats who designated their own candidate for the Chisinau mayoralty race. Noteworthy, the party rating was on the rise, heating 15%, however this time it could drop.

- d. The mere fact that elections were scheduled for mid-summer might also change the demographics of voter participation. The increased ratio of low-income voters (those who cannot afford to take a vacation and therefore have a low mobility) in the voter turnout, might significantly distort election outcome. Previously this factor was considered in greater detail.

The first factor mentioned is a major one, the other three either strengthen or diminish it. Expectations of "massive migration" of voters from one candidate to the other determined by the "useful vote" or, on the contrary "protest vote" phenomena refer specifically to the elections of the Chisinau Mayor and are inspired by the last three factors. The first factor should have a major impact in the other 13 localities where new elections of the mayors are to be held. From this point of view it is worth examining the contestants in those localities as well.

Localities	Whose candidate held the position before it became vacant	PC	MNA	CDPP	DP	PRR	SLP	SDP	RPP	LP	LUPR	EMAV	Independents	Total
Chisinau	Independent	1		1	1	1				1	1	1	3	10
Ghidighici, Chisinau municipality	SLAMN		1										2	3
Chetrosu, Anenii Noi rayon	PC	1											4	5
Balasinesti, Briceni rayon	Democratic Party	1			1		1						1	4
Slobozia-Sireuti, Briceni rayon	PC	1				1		1						3
Alexandru Ioan Cuza, Cahul rayon	SLAMN		1		1								4	6
Frumoasa, Calarasi rayon	PC	1												1

Parcova, Edinet rayon	Independent	1	1		1								2	5
Piatra, Orhei rayon	Independent	1	1		1									3
Teleseu, Orhei rayon	Independent	1						1					1	3
Zaicani, Riscani rayon	PC	1	1					1						3
Vadul- Rascov, Soldanesti rayon	SLAMN	1			1			1					1	4
Purcari, Stefan Voda rayon	SLAMN			1	1		1	1	1				2	7
Talmaza, Stefan Voda rayon	PC			1									1	2
Total	PC - 5 SLAMN - 4 DP - 1 Independents - 4	10	5	3	7	2	2	5	1	1	1	1	21	59

Thus, out of the 14 vacancies five were previously held by Party of Communists' representative, 4 by Social-Liberal Alliance "Moldova Noastra" (SLAMN), 1 by Christian-Democratic Peoples' Party (CDPP), 4 by independents. Noteworthy, Party of Communists designated candidates only in 10 localities, Democratic Party (DP) in - 7, Moldova Noastra Alliance - 5, Social-Democratic Party (SDP) 5, Christian-Democrats - 3, Social-Liberal Party (SLP) - 2, Patria-Rodina-Ravnopravie Bloc - 2, Republican Peoples' Party (RPP) - 1, Liberal Party (LP) - 1, Labour Union "Patria-Rodina" (LUPR) - 1, and Environmental Movement "Alianta Verde" (EMAV) - 1. Out of the 59 electoral contestants competing in the race for the mayoralty of 14 localities, twenty one are independent candidates.

2. Candidates running for the Chisinau mayoralty

Supposedly mayor elections are more administrative than political elections, however Moldovan political elite gives them a special importance, especially in Chisinau. There are plenty of examples when mayors of capital cities made a spectacular political carrier. As for Chisinau elections, an indicator of their importance is the number and quality of candidates. Among the ten contestants there is one former Prime-Minister, an incumbent Minister, three former Ministers, a judge at the Supreme Court of Justice and the Constitutional Court, a diplomat. The others also boast an impressive resume.

Unfortunately, no opinion polls have been made public. That is why one may only speculate on the candidates' chances. To make the rating easier, one might classify the contestants into three distinct categories.

- a. **Candidates designated or supported by parliamentary factions.** All the four factions represented in Parliament either designated or announced their support to a candidate for the Mayor's seat.

Zinaida Greceanii, candidate of the Party of Communists, Minister of Finance stands the greatest chances of victory. Albeit not a party member, her main advantage is the high rating of the Party of Communists. Still a mention should be made that the party rating has been dwindling in Chisinau since 2001, more than 9% in the last four years. In the 2001 parliamentary elections PC garnered in Chisinau - 47.05%; in 2003 municipal elections - 43.74%, mayor elections (first round) - 40.7%; 2005 parliamentary elections - 37.97%. This trend is a result of "Gagauz syndrome". In 2003 Party of Communists lost mayor elections. This year Communist party designated a high professional candidate, still in her case the rating of the party and of its leader are determining the final outcome. If the voter turnout is as usual around 45%, Communist candidate has little chance to win. However if the voter turnout is very low, close to one third required for elections validation, then Greceanii stands a real chance to win even from the first round. And this because of the increased ration of "low-mobility" voters in the voter turnout. If counting on the "inertness of the voter preferences" principle, one should take into account that in the recent parliamentary elections 128 thousand voters out of 618 thousand included in the voter rolls cast their ballots in favour of the Party of

Communists. For the July 10 elections to be validated about 200 thousand voters should come to the polling stations. Consequently, Communist candidate stands real chances for a landslide victory, even if "Gagauz syndrome" or low turnout steals ? of their votes. At the same time "Gagauz syndrome" might be compensated by the vote of the suburbs, including 18 localities part of the municipality. There are about 85 thousand voters (i.e. 14% of the total voters) in the suburbs, on top of that as a rule the voter turnout there is 10% higher than in the city. In the 2003 local elections it was the suburbs that secured the victory of Serafim Urechean. Urechean's resignation as a mayor might turn the suburbs to the strongest candidates that would promise to solve their problems, especially as the extreme poverty qualifies many citizens of suburb as low-mobility voters.

Dumitru Braghis, independent candidate, former Co-chairman of the Moldova Noastra Alliance, MP, supported by Moldova Noastra Alliance (MNA). Pundits give him great chances of success, at least to get to the second round. In 2001 parliamentary elections, while a Prime-Minister he headed "Braghis Alliance" Electoral Bloc and won 13.36% nation-wide, while 9.39% in Chisinau. In the 2003 elections to the Chisinau municipal council Moldova Noastra Social-Liberal Alliance garnered 25.12%. In the recent parliamentary elections Moldova Noastra was cast 31% of the votes in Chisinau. His personal rating as well as the active campaign he carried out, cast Braghis as the non-Communist candidate standing the greatest chances of success. In the first round Braghis might win the votes of those who albeit support other contestants fear they have no chances - the so-called "useful vote". In addition, Braghis might attract some "floating votes" as a result of "Gagauz syndrome". In 2003 Serafim Urechean, MNA leader, managed to capture those votes, which in fact brought him the much-coveted victory. It is also true that at the time, incumbent mayor Urechean enjoyed a very high rating in Chisinau. Now, it is important for Braghis to get to the second round when he would have a chance to exploit all the factors shaping this campaign, except for "low mobility". The latter however is the determining one.

Gheorghe Susarenco, candidate designated by Christian-Democratic People's Party, MP in the Christian-Democratic faction, former judge of the Supreme Court of Justice and Constitutional Court, former member of the CEC in 1994, former Deputy Mayor of Chisinau, not a party member. His work in the Constitutional Court and CEC stand as testimony to his professionalism. One may estimate Susarenco's rating by judging on Christian-Democrats' rating. In the 2003 local elections and 2005 parliamentary ones Christian-Democrats' rating in Chisinau was around 15%. Still, in 2003 Christian-Democrat candidate Vlad Cubreacov garnered only 8% of the votes. It is believed that due to "useful vote" phenomena Urechean snatched many votes from Cubreacov. This time the same phenomena might be less important, however the "national consensus" might cost them dear. Another factor that might affect the performance of the Christian-Democrat candidate is preponderant participation of "low-mobility" voters in elections.

Vladimir Guritenco, candidate of the Democratic Party, praetor of Botanica district of the Chisinau Municipality, former Minister of Labour and Social Welfare might have in Chisinau a higher rating than that of his party. In the 2003 Democratic Party garnered 3%. It is very unlikely that the party's rating has evolved. Democratic Party ran as part of the Moldova Democrata Bloc (MDB) in the 2005 elections and afterwards was severely criticized for leaving MDB. His strong point is the good image he has among the residents of the Botanica district. It's hard to say whether any of the aforesaid factors would have a significant impact on Guritenco's performance in elections.

- b. **Candidates designated by extra-parliamentary parties and alliances.** The two candidates in this category are leaders of extra-parliamentary parties representing left opposition that heavily criticizes governing party led initiatives, especially "national consensus":

Valerii Klimenko, leader of the Social-Political Republican Movement "Ravnopravie" is supported by the Socialist Party and Party of Socialists (the latter two formed an electoral bloc "Patria-Rodina" in the recent parliamentary elections). In the July 10 elections Klimenko would represent Patria-Rodina-Ravnopravie electoral bloc. He runs for the third time in the Chisinau mayoral elections. In 1999 he garnered 4.1%, in 2003 - 1.8%. In the recent parliamentary elections his party got 2.83% nation wide and 3.29% in Chisinau Municipality. "Patria- Rodina" Bloc was cast 4.97% nation wide and 4.7% in Chisinau municipality in the recent parliamentary elections. Patria-Rodina benefited to a large extent from the "Gagauz syndrome" garnering 51.5% in Gagauz-Yeri in 2005 over only 4.7% in 2001. Klimenko appeals mainly to the "national feelings" of the citizens of Russian origin. Given that relations between Moldova and Russia continue to worsen, one might well expect "Gagauz syndrome" to be on the rise. Noteworthy Klimenko insists he is "the only one able to repair and improve relations with Russia". Under certain circumstances Klimenko might even get to the second round.

Gheorghe Sima, leader of the Labour Union "Patria-Rodina", former MP, former Minister of Education. In the recent parliamentary elections his party got 0.92% nationwide and 1.45% in Chisinau.

Both candidates share similar views especially as regards RM integration into CIS and single economic space. Besides bringing up administrative issues in his campaign both of them contests the principles that laid the ground for the "national consensus" between all the parliamentary groups, i.e. European integration and "3D" strategy for the Transnistrian conflict resolution.

- c. **Civic activist candidates**

In a way, the other four candidates represent civil society - they are rather known as leaders of non-governmental organisations:

Iuliana Gorea-Costin independent candidate, Chair of the European Association of Political Strategy, diplomat, former RM representative to the Council of Europe. Previously Gorea-Costin ran for the presidency in 1996, accruing 0.64% nationwide and 0.73% in Chisinau. Her main strong point is the way she communicates.

Vladimir Garaba has been designated by the Environmental Party "Alianta Verde" (EPAV), Chair of the Chisinau Territorial Organisation of the Environmental Movement. In the past elections EPAV ran as part of electoral blocs represented in Parliament. Only in 1994 did the party run separately and accrued 0.4%. The party did not take part in the recent parliamentary elections. It seems that Garaba's main goal is to highlight environmental problems in Chisinau rather than win the race. He does not make populist promises rather points to the problems faced by the municipality.

Dorin Chirtoaca has been designated by the Liberal Party (until recently Party of Reforms), lawyer, Project Coordinator of the Helsinki Committee for Human Rights. The fact that he is the party Deputy Chair of the party does not bring any advantages in itself. In the past the party has had a quite modest performance: 2.4% in 1994; 0.5% in 1998; 0.7% in 2001. In the 1995 and 2003 local elections the party ran as part of the largest opposition electoral bloc. Therefore, Chirtoaca's main advantage is his personal qualities. TV debates set him in a very positive light as he is good in expressing his thoughts. Albeit he is the youngest candidate, only 28 years, Chirtoaca seems to have been able to prove himself as very knowledgeable of the Chisinau problems. There are many signs that Chirtoaca would gather "protest votes" of those who have been disappointed by the way democratic parties reached the "national consensus" with the ruling party. Mass media promoting the renewal of political elite outlined the following scenario for Chirtoaca to enter big politics: attracting as many "protest votes" in July 10 elections; converting "protest votes" into "conscious votes" and attracting new votes in the 2007 local elections; attracting "useful votes" in the 2009 parliamentary elections and getting into Parliament.

Mihai Severovan, independent candidate, Chair of the Employers' Union in Public Services of the RM, independent councillor in the Chisinau Municipal Council, probably the most experienced in administration. He was a Deputy Minister of Communal Husbandry (1987-1990), Chairperson of the City Executive Committee (Chisinau mayor in 1990), Minister of Constructions and Territory Planning (1998-1999). In addition, Mihai Severovan has a vast experience in politics. In 2001 he ran for Parliament on the lists of the Party of Rebirth and Reconciliation, while in 2002 was elected Deputy Chair of the Liberal Party's National Council (which merged with Moldova Noastra Alliance in 2003). In 2003 Mihai Severovan ran for the mayoralty as an independent candidate and garnered 1.3% of the votes.

Was the "national consensus" rescued?

Cristian Untila, July 29, 2005

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1. Orange evolution quota - 70%

A very strange thing could be outlined during latest debates within sittings of the Parliament, broadcasted live on television and radio - the representatives of the Our Moldova Alliance faction excel in criticism against actions and drafts of the Government. The representatives of the Christian Democratic People's Party (PPCD) and Democratic Party (PD) demonstrate a more lenient attitude towards drafts promoted by the parliamentary majority. This attitude is partly accountable through the "national consensus" established at the beginning of activity of the acting legislature, as well as due to gradual fulfilment of several conditions imposed by the PPCD faction in order to reelect President Voronin.

Thus "national consensus" is the Moldovan alternative to "orange revolution", while socio-political developments within the "consensus" framework are perceived as "orange evolutions". Following of the fundamental conditions for a "national consensus" were fulfilled by the end of the summer session of the Parliament: a) live broadcasting of plenary sittings of legislature on radio and television; b) publication of records of plenary sittings on the official website of the Parliament; c) agreement of the Government to give up quality of founder of newspapers *Nezavisimaya Moldova* and *Moldova Suverana*; d) modification of the law on Superior Council of Magistrates; e) modification of the law on the Chamber of Auditors; f) modification of the Election Code; g) modification of the law on the domestic security service SIS.

Under these conditions, the opposition can be sure that persons and functionaries who will work in compliance with requirements and criteria regarding depoliticizing of law, inspection and security bodies will be promoted to these institutions.

However, the Parliament failed to adopt a new Audiovisual Code, to modify the laws on prosecutor's office and local public administration, and these are conditions included in the set of initial demands. Even more, the parliamentary majority representatives did not want to cede in some very important issues of principle, and insisted that the person they have proposed be elected as chairman of the Supreme Court of Justice for a new mandate, in spite of protests of PPCD. Thus, only about 70 percent of opposition's demands were fulfilled. Amendments to the legislation have a principle nature and it can be said that the "national consensus" remains in effect for the time being, especially after the almost unanimous adoption of the law on key provisions of the special juridical statute of settlements on the left bank of the Dniester river by the Parliament.

2. Law on modification of legislative documents on justice.

The law adopted recently by the Parliament in two readings aims to establish new regulations on organisation of justice and regulation of status of judge. Its declared goal is to strengthen the independence of judges and autonomy of judiciary system.

Essence of amendments:

- a. obligation of the chief of state and Parliament to motivate the refusal to appoint the chairman and deputy chairman of courts and courts of appeal or the Supreme Court of Justice only from grounded reasons of incompatibility, violation of legislation or violation of selection and promotion procedure. If the Superior Council of Magistrates proposes again the same candidate after a first rejection, the president will have to issue a decree or the Parliament will have to pass an appointment decision within 30 days after presentation of the repeated proposal. The law says nothing about what would happen if the Parliament or chief of state do not issue the necessary decision or decree. The regulations in effect do not stipulate any juridical responsibility for the chief of state or parliamentarians and it means that this issue is rather reserved for politics;
- b. obligation of the chief of state to motivate his refusal to name judges of courts or courts of appeal or to appoint to offices before expiration of age limit, only if he holds cogent evidence of incompatibility of candidate or judge who runs this office, violation of legislation or legal procedures of selection and promotion of candidate or judge. The law fails to explain the nature of incompatibility of a candidate to the judge post, as long as he is not named to this post and can run any public or private function, and the incompatibility may stop only after appointment to the office of judge. When the Superior Council of Magistrates comes with a repeated proposal, the chief of state will issue a decree on appointment to the post of judge or appointment to this post till expiration of the age limit within 30 days after reception of the repeated proposal.

3. Amendment of the law on Superior Council of Magistrates.

The law contains two key elements:

- a. *Modification of mode of constitution of the council.* Seven out of 12 members of the Superior Council of Magistrates will be elected by the Moldovan General Assembly of Judges through secret vote, while the Parliament will elect two members among entitled professors - one at the proposal of the parliamentary majority and another one at the initiative of the parliamentary opposition. The law says that the judges elected by the General Assembly of Judges will be temporarily transferred on basis of the rotating principle, by three members at once for a one-year period. At present, the Superior Council of Magistrates is created the following way: the Supreme Court of Justice Plenum elects two judges, the meeting of judges of courts of appeal names another two, the meeting of judges of courts appoints two members, and the

Parliament names three entitled professors. The Supreme Court of Justice head, justice minister and prosecutor-general are members of the Superior Council of Magistrates;

- b. *Status of the General Assembly of Judges.* Under the law, the General Assembly will ensure the implementation of the principle of self-administration of judiciary power, holding the exclusive competence to elect seven members of the Superior Council of Magistrates. Also, the assembly will not be able to pass any other decision on organisation of the judiciary power. The assembly will hold a meeting within four years and it will be deliberative, if at least 2/3 of the total number of judges attend it, and if there is evidence that the judges who do not attend it were announced beforehand about this meeting. A new public self-administration body was created indeed through these norms, without consulting the judges who will have to ensure its activity. Under the effective provisions of the law on the Superior Council of Magistrates, this body is an independent body created for organisation and functioning of the judiciary system, a guarantee of independence of judiciary authority, made up to exert the judiciary self-administration. Respectively, the norms which award the right to self-administration to the Superior Council of Magistrates and General Assembly will be in situation of conflict. The draft has initially proposed that the new members of the Superior Council of Magistrates be elected within three months after enforcement of this law, but this would affect the mandate of acting members elected for a longer term.

4. Law on modification of legislative documents on domestic security service SIS

The amendments awarded new competences to SIS, in particular: a) protection of state secret; b) creation, functioning and insurance of security of governmental telecommunication systems; c) conduct of anti-terrorism actions.

Also, the SIS was deprived of the right to conduct penal investigations and to hold a temporary detention facility. The law did not introduce any regulations on demilitarisation of SIS, nor it contains any norms which would serve as base for a future lustration law through disclosure of secret agents of the totalitarian regime. Also, the law did not introduce any new regulations on limitation of information for the "state secret" category, though abuses in this sector had earlier been signalled. These amendments had a superficial nature and called indeed only for suppression of penal investigations for several offences which rested with the SIS competence.

5. Law on modification and completion of the law on Court of Auditors.

The law on the Court of Auditors was completed with a set of norms regarding:

- a. the goal of the law is to ensure respect for the mode of creation, administration and use of public financial resources; insurance of legal use and in compliance with destination, under conditions of saving, efficiency of public estate, etc;
- b. explanation of several notions: thematic control; policies from governing programme; control procedures, findings, control tests, etc;

- c. presentation of a report to the parliament: every year, regarding administration of state budget, covering the registered shortcomings as well. The report will be examined at a special sitting of the parliament;
- d. principles of financial control activity of the chamber: responsibility; objectivity; independence; competence; clear communication; transparency, etc. An additional control on administration of financial resources may be carried out at the demand of every parliamentary faction, once in a trimester;
- e. the status of the Chamber of Auditors members: 3 members will be elected at the initiative of the parliamentary majority, while four members will be appointed at the proposal of opposition. Under the law, the chamber members will not be recalled from offices, and vacation of their mandate will be accepted only in case of dismissal, definitive sentencing under Penal Code, expiration of term, from health-related reasons, or if the member turns 65. At present, the legislation says that the parliament can recall the chairman and members of the Chamber of Auditors from offices before term, if they fail their tasks, violate the legislation in effect or commit abusive actions, and if most of elected lawmakers vote for such a decision. Thus, lawmakers decided to limit the own right to revocation in case of the Chamber of Auditors;
- f. detailing of the mechanism for further controls, at the scene and in its offices, and detailing of the mode of issuing of decisions and other documents of the Chamber of Auditors.

6. Law on modification and completion of the Election Code

The law on modification and completion of the Election Code is part of the most important drafts mentioned above and adopted by the Parliament. The draft was worked out by a task force created especially to collect proposals of all parliamentary factions regarding the improvement of the election system and process, as well as initiatives of nongovernmental organisations specialised in this area. The new regulations may be grouped as it follows:

- a. Explanation of some definitions and notions: *appointment of candidates, conduct code* (between the Central Election Commission (CEC), mass media and electoral competitors); *domicile and residence*;
- b. Limitation of participation of independent candidates in parliamentary elections. This law suppressed the possibility of independent candidates to participate in parliamentary elections, maintaining only their right to attend the local elections. The motivation of such an amendment was that no independent candidate was elected as lawmaker since 1994. However, the exaggerate electoral threshold of 3-4percent for independent candidates was not taken into consideration;
- c. Modification of statute of the Central Election Commission. CEC will be made up by nine members: the president of Moldova and the cabinet of ministers will appoint by one member, and the Parliament will name another seven, including five will be named by opposition parties, in line with their number of mandates. The CEC members will be irremovable, but the Parliament will hold the right to *sack the CEC members*. The Supreme Court of Justice alone has held this right until now, and the transfer of this right to

the politics sector can be hardly described as "improvement and democratisation of electoral legislation," and this is rather a step backwards to insurance of political control on an independent structure. More than that, a norm allowing the Parliament to sack the CEC members if they "gravely violate the Constitution of Moldova and the Election Code" was included. The law does not explain the grave violations of Constitution and Election Code, these being the competences of the Constitutional Court and other courts, as a rule. The post of CEC chairman was assimilated to the office of minister, while the posts of CEC deputy chairman and secretary to the office of deputy minister. Also, the term of mandate of CEC members was reduced from 6 down to 5 years. Under the law, the CEC members will be appointed within three months, so that the mandate of acting CEC members that the Parliament named two years ago may be limited this way;

- d. Change of modality of appointment of members of constituency election bodies and polling stations. Thus, judges will propose two members of constituency councils, local councils of the respective level will name two members, while parties and social-political organisations represented in the Parliament when these electoral bodies will be created will proportionally name the other members entitled to speak and vote. This norm did not provoke debates within parliamentary parties, while the opinion of extra-parliamentary parties was not even consulted, but many experts fear that conflicts and tense situations may occur in future, as this norm may leave room for abuses and monopolisation of the political process by several ruling parties;
- e. Explanation and issuing of electoral lists. The local public administration authorities will verify the electoral lists every year, updating them at the domicile of electors and delivering the information to the CEC by March 1 of every year. The elector with domicile and residence will be included in the electoral list where he has residence (the problem of how students with temporary residence in the settlement where they study will cast their votes will be solved this way);
- f. Status of registered candidates. They will receive the necessary medium salary from CEC in case of relief from office. Also, the registered candidates will not be investigated under the Penal Code, arrested, held or receive administrative sanctions without a beforehand agreement of the electoral body which registered them, except for flagrant offences, throughout the electoral period. The Constitutional Court has considered the last clause within interpretation of a similar article from the Election Code, which was excluded later;
- g. Broadcasting of electoral programmes. All analytical, news, entertainment, or other programmes envisaging the electoral subjects will be broadcasted under generic "Elections" by respecting the CEC concept and regulation." If the image of an electoral subject is harmed in other programmes than broadcasted under this generic, he will hold the right to reply under the same conditions. Also, the public audiovisual institutions have been obliged to organise public debates for all electoral contestants under fair conditions. The Election Code was completed with a norm, at the initiative of NGOs participating in elaboration of this draft, which obliges the mass media to broadcast civic and electoral education advertisement at the request of CEC, to hold media campaigns to inform electors over procedure of voting and other particularities of voting;

- h. Issuing of ballot paper and voting. Every ballot paper will have a detachable coupon containing several elements: - number of ballot paper, type and date of elections; name and first name of elector; series and number of his identity card, place for control stamp, name and first name of person in charge with issuing the ballot paper. The elector will be able to introduce his ballot paper in box only after the electoral body member assures over identity of the holder, and he will keep all the coupons of ballot papers introduced in the box. These innovations besides the "voted" sample applied in annex to the identity card may provoke many problems during voting process, as electors are unused to such details, and there were cases at the latest scrutinies when voters refused to cast their ballots because they did not want the sample to be applied in their annexes;
- i. Empowerment of CEC with the right to sanction electoral competitors. Article 69 of the Election Code was completed with norms which allow the CEC to sanction the electoral competitors for violation of the Election Code through a warning or fine. Also, unlike contraventions and offences, no violations are indicated and thus any breach of the code will be able to bring sanctions. Nor who will apply the sanction is established - the entire commission (through its decision) or only the CEC chairman (as head), like in case of other sanctioning bodies. In the first case, it will be curiously to monitor at the next electoral scrutiny how the new CEC members will apply sanctions, as the opposition representatives will hold the majority and could obstruct vehemently enough the actions of the ruling party representatives;
- j. Modification of electoral threshold. One of the key amendments to the Election Code envisages the fact that a four percent electoral threshold will be in effect for parties and other social-political organisations participating in elections, so that the initial figure established when the 1997 Parliament adopted the Election Code was reintroduced. The electoral threshold for electoral blocs regardless of the number of subjects which created it was unified and established at the level of 8 percent. The electoral threshold for blocs made up by two parties is 9 percent and for blocs of minimum three parties is 12 percent at present. Thus, the idea of a successive threshold introduced in the Election Code in 2000 at the initiative of PPCD was maintained on one hand. On the other hand, a recommendation of the Venice Commission regarding the introduction of a 3-5 percent threshold for a party was fulfilled. It is worth to mention that the norm on electoral threshold was discussed the most and it was modified sometimes in dependence of the political juncture, on basis of interests of the parliamentary majority. It can be said that the amendment this time is also profitable for the majority faction, whose rating was shaken at the recent electoral scrutiny through creation of a joint bloc of centre-right parties. It was observed when the president was elected that small parties are more ready for negotiations and situations like what happened on April 4, 2005 could repeat in future.

7. Conclusions

Although they are very necessary, these drafts have been worked out and adopted under an emergency regime, without deep analyses and without taking into account the existing objective realities. No international expertise was undertaken on them, while the process of internal coordination with civil society did not have a very transparent nature.

Without reducing the cogent value of certain norms, many experts note that the findings of a primary analysis of these drafts show that they are very far from the initial meaning of appeals and ideas which served as ground to start them.

However, everybody should be content from political point of view: a) the "constructive opposition" has got possibilities to promote its staff and enjoys the occasion to temperate the criticism of former supporters who neglect it after the first had reached a "national consensus" with the ruling party; b) the government maintained possibilities for a long time to influence different structures; the envisaged structures kept or even deepened their independence.

We will see if these amendments will have a true positive impact on citizens, social groups, society in general, and (why not?) on "active opposition" which boycotted the reelection of President Voronin, but votes some modifications within the "national consensus", if all these changes will contribute to what we call "adjustment of national legislation to principles of international legislation in this area."

1. Yet another attempt to revive CIS?

Forecasts on the death of the CIS, or on the contrary, the need for its revival have traditionally accompanied any forthcoming CIS Summit. The recent Summit held in Kazan' on August 26, 2005 was not an exception to that. As usual, pessimists claim that "CIS is more dead than alive", while the optimists claim the opposite. The truth is somewhere in the middle, i.e. CIS is in a coma. This explains the numerous initiatives to revive CIS, or to eliminate the "necrosis" by promoting differentiated, gradual, or even "various speed" integration of certain micro-communities within CIS, such as Russia-Belarus Union (RBU); Eurasia Union (EU), Common Economic Space (CES), which despite their potential are still quite ephemeral.

And this largely due to the fact that right from the beginning CIS lacked a clear strategy. Currently, there is much talk that the greatest merit of CIS was to bring "civilized divorce" of the former soviet republics, fact also confirmed recently by President Putin. At the beginning things were quite different; however the low economic integration potential (despite the dozens of summits and hundreds of adopted documents) has brought the general acceptance of this point. In its early stages, the most liberal Russian Foreign Minister Andrey Kozyrev was claiming that CIS main purpose was to serve the exclusive interests of Russia, while Russian Presidents' Councilor Andranic Migranean went further saying Russia was to promote in CIS a strategy similar to Monroe doctrine. Later on, Russian high rank moguls and pundits issued a string of statements on the CIS role in preserving Russia's influence in the region by means of liberal economic imperialism. A special role in this respect was given to the "security belt" made up of secessionist enclaves that were to prevent some CIS states from leaving Russia's sphere of influence. In response, CIS countries focused on "consolidating their own sovereignty", refrained from any supranational structures within CIS, rather accepting only coordination structures in various fields.

The turning point for CIS was the Yalta Summit held in September 2003, when Russia, Ukraine, Belarus and Kazakhstan announced the creation of Common Economic Space (CES). After the Summit, Russia's strategy as regards CIS became quite clear, especially in the three key areas: economy and trade; military and security; humanitarian and informational. There is quite clear distinction. Albeit practically all CIS countries opt for a close economic cooperation, after the Yalta Summit not all of them are eligible for such cooperation. For instance, the first signs of a cool-down between Moldova and Russia showed immediately after the Yalta Summit when Moldova was not invited into the CES. Only the countries endowed with huge economic potential and whose GDP accounted for at least 90% of the CIS' GDP, got invited. Among the four founding countries, Russia and Kazakhstan seem to be self-sufficient economically, largely due to their vast oil and gas reserves. As for Belarus and Ukraine, albeit they are the greatest importers of oil and gas, still they have a huge economic potential and are economically quite attractive for Russia.

Lukashenko's regime remains afloat mainly due to Russia's support, which explains his oratorical ardor on Russia-Belarus unification. Ukraine, on the other hand, is attractive due to its economic and geopolitical position as well as historic ties with Russia.

Russia seems to view economic cooperation and integration without a military component, as quite risky for consolidating its influence in CIS. That is why membership in the CIS' Agreement on Joint Security (AJS) seems to be one of the main criteria when deciding economic policy towards certain CIS countries. This is the generally-accepted logic. For instance, former Communist Central European countries first joined NATO and only afterwards EU. Out of the CIS countries invited to the CES only Ukraine is not a member of AJS, however, as it was mentioned, its strategic importance for Russia qualifies it for CES.

The other CIS states having weaker economies and caring about their "sovereignty" that are not AJS members could not even aspire to get into CES club. The mere thing that keeps them in the CIS is the secessionism "security belt" (Transnistria, Abkhazia and South Osetia, Nagornokarabakh). Thus, Armenia, Azerbaijan, Georgia and Moldova neither could fully exploit CIS economically, nor could leave it without getting into bigger troubles. What some of them could really do is to get into even more ephemeral structures than CIS, like GUAM.

Evidence to the new Russia's strategy towards CIS is the statement made by Chair of the Foreign Relations Committee of the Federal Assembly, Mikhail Margelov "The change in Russia's foreign policy, its pragmatism, has started five years ago", i.e. once Putin acceded to power. Yet another illustration is the initial agenda of the Kazani Summit, as well as the fact that Ukraine's propositions were neglected. Economic issues were only discussed by the heads of the four CES countries. Military cooperation issues have been on the agenda of AJS countries, while the leftovers - festivities, commemorations, and other general stuff of interest for Russia - were put forward on the agenda for discussions by all the heads of state. Those included among others: Agreement on Humanitarian Cooperation within CIS; preparations for the 60th anniversary of the UN; address to the international community on the 20th anniversary of Chernobyl tragedy; fighting terrorism, extremism, trafficking in human beings and illegal migration.

Great many pundits were quite critical of the Summit given that only one issue saw unanimous support - 20th anniversary of the Chernobyl tragedy. On top of that, Turkmenistan announced its withdrawal from CIS, rather opting for the status of associated member. Still, one should not exaggerate its implications, for instance Ukraine never ratified its adherence to CIS, and is also considered an associated-member. However, the leaders of Ukraine and Georgia, the main revolutionaries within CIS, did praise the summit.

To somehow disguise the CIS deadlock, Russia proposed "reforming and increasing the efficiency of the governing bodies" by establishing "an advisory council" to include well known public figures. The latter is yet another confirmation to the fact that at least for now, CIS is nothing but a discussion club. It also points to the transitional character of the Summit in Kazan', which paves the way to really

spectacular events impinged by the new political realities within the CIS and internationally.

2. Context of the CIS Summit

Kazan' Summit happened in a special political context boosting Russia's position in the CIS:

- a. The problems EU is facing after its 2004 enlargement diminish even further the hypothetical accession prospects of the CIS' countries that declared EU integration as their top goal. Ukrainian Prime-Minister Yulia Tymoshenko stated recently that it was not the right moment to knock at EU's doors when it was troubled with its own problems. At the same time Kiev administration had to refute the statement made by its Minister of Economy, Sergey Terehin on Ukraine's withdrawal from CIS. On the contrary, Kiev insists on establishing a free-trade zone within SES, of course, without creating any supra-national structures. The latter goes counter to Russia and Kazakhstan's intentions to be limited only to joint customs and tariff systems.
- b. efforts to avoid any potential "colorful revolutions" push leaders of authoritarian CIS states in Russia's arms, including military. Despite certain tensions between Russia and Kazakhstan when the latter decided two years ago to equip its airports with American radar systems and its pressure to dissolve AJS headquarters, the military and political integration in the Central Asia is taking place, among others via Shanghai Cooperation Organization. The mere fact that Russian authorities endorsed Nursultan Nazarbaev's December re-election indicate that the differences are much smaller than the danger of a "colored revolution". The latest developments in Uzbekistan are also illustrative for understanding the regional trends.
- c. despite many problems, Russia's role as EU and US strategic partner is gaining grounds, partly due to its vast oil and gas resources, a major factor given the instability in the oil exporting regions. Oil has become a crucial factor in negotiating not only with CIS, but also with EU. Signing of the Agreement on building a natural gas pipeline across the Baltic Sea by President Putin and Schroder scheduled for September 8 (ten days prior to general elections in Germany) might have a significant impact on election outcomes. Moreover, this project raises many problems for Ukraine and Poland's energetic security, as it neglects the extension of Odessa - Brody pipeline taking oil from Caspian Sea to Poland and further on. In response to Russian-German project, Ukrainian authorities intend to rely on coal and uranium. This apparent ultimatum comes after Russia announced its intention to raise 2-3 times the price on gas, while US was dissatisfied with Ukraine's intention to build a gas pipeline from Iran to Ukraine and Europe.
- d. profits from the skyrocketed prices on oil open new opportunities for Russia to revive its military and to conduct humanitarian operations in the so-called joint informational CIS space. Curiously enough, in some cases Russia weighs more economic rather than humanitarian benefits. The conflict between Russia and Turkmenistan arisen two years ago, when the latter decided to cancel the double citizenship for Turkmen citizens. The conflict was settled immediately the two countries reached an agreement on the export

of Turkmen gas through Russian pipelines. Apparently, the interests of Russians residing in Turkmenistan were simply forgotten. Accordingly, as long as Turkmenistan exports its gas via Russian pipelines, its withdrawal from CIS does not threaten Russia's interests. In return, CIS states importing oil have to cope with the consequences of humanitarian programs in the joint informational space, i.e. involvement in elections, as was the recent cases of Ukraine and Moldova.

- e. "turning into monetary terms" the relations with CIS depending on their loyalty to Russia - might prove to be the most powerful lever in Russia's hands to wield heavy influence on those countries. Russian officials claim that the move is a clear evidence that Russia gave up on its "imperial ambitions". Sure, this is a false argument. Pretensions that CIS countries in conflict with Russia "should not be sponsored" and have to pay world prices on imported gas, do not take into account the damages incurred by the secessionism supported by Russia and its troops stationed on the soil of those countries. Anyway, the economic and military power remains to be crucial in such kind of disputes.

3. Possible consequences for Moldova

President Voronin's participation in the Kazani Summit is in line with his statement "Moldova would not become a burier of CIS", meaning that Moldova would not leave the structure. The attitude towards the documents put forward for debates resumed to "Moldova signs only the documents that do not run counter to the provisions of the EU-RM Action Plan". This is a respectable position, however given Ukraine's indecisiveness as regards its further integration in CIS, and more importantly, regarding securing the border on Transdnistrian portion, Moldova remains somehow marginalized. Furthermore, RM incurs huge loses given Russia's ban on fruit and vegetable imports from Moldova. An eventual price hike on gas would be yet another blow for Moldova. In the long run, those factors might shape the political landscape in Moldova, especially revive the pro-CIS opposition.

Activity of the Parliament within the first session

Sergiu Grosu, September 12, 2005

Democracy and governing in Moldova
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Lawmakers are expected in late September to return from their two months vacation and start the examination of draft laws included in the agenda of the legislature. The priorities of the second session (which is the shortest and lasts less than three months) have not been established until now, though the executive had drafted a four-year activity program and action plans. Also, the Parliament passed a decision last June, obliging the executive to submit on **September 1, 2005** a list of legislative documents which will be drafted in order to implement the governing program and national strategies on key sectors, aiming at bringing in accordance the national legislation to community acquis. It is not clear yet whether the executive has fulfilled the task, nor whether envisaged list of legislative documents has been developed and lawmakers agenda.

One may only engage in suppositions on the agenda of the next session, however what really is feasible is to review the previous session of the legislators elected on March 6, 2005 elections when they adopted more than 200 legislative documents.

Political and organizational problems

The great majority of spring-summer session focused on political issues and settlement of organizational aspects of Parliament activity. Thus, several sessions in a row focused on election of the Parliament's administration, members of the permanent bureau, parliamentary factions and commissions. Also, the lawmakers debated more than once the membership of parliamentary delegations, with representatives of different factions expressing contradictory preferences on cooperation at international and inter-parliamentary levels. Two sessions of the Parliament focused on election and, respectively, investiture of the President, another session was dedicated to introduction of the candidate to the Prime-Minister seat and confidence vote to the Government. Almost an entire session focused on appointment of the Supreme Court of Justice head, while another session was used to name judges and deputy chairmen of the Supreme Court of Justice (and only one of them was finally appointed). Another session was used to hear the annual report of the Human Rights Center, a hearing when Parliamentary opposition voiced harsh criticism. Statements and appeals on different topics of interior and foreign policies represented a separate issue. Also, the Parliament examined separately the Law on Basic Provisions of the Status of the Left Bank of Dniester river.

Parliamentarians paid a special attention to several key sectors, as follows:

Economy, budget and finances

The Parliament adopted a set of amendments shaping the fiscal policy for 2006, establishing a small reduction of the income tax, with introduction or simultaneous rise of the value-added tax for agriculture. On the one hand, tax-payers salute the

reduction of income tax as it may increase the taxable base, reduce the shadow economy, but on the other hand it may pose some problems in filling the state coffers. Respectively, the rise of VAT in agriculture sector will result in higher prices on agricultural products, price-hike also propelled further upwards by the briskly raising oil prices.

Representatives of the Government appreciate the amendments made to the state budget for 2005 as the first success of this kind in the past ten years, but a closer look at the expenditures envisaged by the amendments shows sings of increased spending, investments in expensive repairs and reconstructions of administrative, social-cultural, entertainment units. Also, budgetary financial investments are almost absent in important economic and social sectors [creation of new enterprises, construction of housing, crediting youth, building educational and sport institutions, etc].

The amendments to laws which regulate the activity of investment funds aim at bringing more transparency and new guarantees for shareholders. On the other hand the parliamentary opposition viewed them as an attempt to redistribute property and to close up societies which are not of interest to the governors, without ensuring a full protection to investors and shareholders.

The new law on leasing was described as an outstanding success, but it gathered a rich harvest of criticism and the President did not promulgate it at the very beginning. It is very hard to estimate the effects of the new regulation since they are almost absent.

Reformation of some institutions

Under agreements on political partnership, lawmakers dedicated a great deal of time to the elaboration and adoption of a set of laws on reforming some institutions and their accountability to opposition. (For further details please see the commentary on this package of legislative documents published in the July 4-29, 2005 e-journal # 55, 3rd year)

Education and science

Lawmakers modified the education law in an attempt to bring it in accordance with the process of integration in the community area (Bologna Process). Also, the deadline set for private educational institutions to comply with legal requirements [increase of statutory fund, own premises, adequate technical and didactic endowment, etc.] was extended for one year.

The list of professions and specialties taught by higher education institutions was adopted through a distinct law. Representatives of the parliamentary opposition criticized some of the provisions [but without any result], proposing to grant the right to education in medicine sector to private educational institutions as well, since this is an internationally recognized practice.

As for science, the Parliament outlined the strategic directions of activity in the area of science and innovation till 2010 and adopted a Law on Botanical Gardens, whose adoption was preceded by a scandal related to inadequate management of the Chisinau municipality Botanical Garden.

Agriculture and related sectors

Lawmakers adopted after repeated debates a Law on Organic Agricultural Products, whose initial provisions were harshly criticized by the academic and scientific environment. Later, the draft proposed by executive was modified, however large financial resources will be needed for implementation of the law and the budget did not provide for them yet.

Transmission and use of land fields and real estate

The Parliament adopted several legislative documents on statute of state-controlled land fields and real estate:

1. Transmission of a building in the town of Vatra to the Justice Ministry for urgent sale, in an attempt to recover the losses of depositors of the Intercapital concern (Law # 197/XVI).
2. Inclusion of a block and adjacent plot located in the territory of the governmental pension in the village of Holercani, the Dubasari district, in the privatization program (Law # 198-XVI).
3. Withdrawal of 15 hectares of higher quality land from the agricultural circuit and the further sale of 12 hectares and building of some objectives which will be part of the Wine City enterprise on about 3 hectares (Law # 184-XVI).
4. Exemption of incomes raised by individuals from sale of agricultural fields from taxes with the purpose to transmit them to the railway company of Moldova, in order to restore the Revaca-Cainari segment (Law # 73-XVI), and others.

Whenever those initiatives were on the Government's agenda, they triggered a storm of criticism from the parliamentary opposition, who accused the authorities of inefficient management of public resources and attempts to surreptitiously sell the state patrimony.

Finally, one may conclude that the key component of the activity of legislature - **lawmaking** - had to suffer; great many of the laws examined were mainly political, organisational and formal documents. The conclusion is also based on the fact that out of a total of 100 adopted laws:

- more than 20 laws envisage the ratification of some international treaties or adhesion to international organisations (*formal documents*);
- more than 50 laws are on amending and completing some previous legislative documents (*the principle of stability of legislation being affected in continuation*);
- less than 10 laws are framework laws aimed at establishing new juridical relations on areas of social life.

Decisions on settlement of political and organizational problems related to activity of the governmental branches represented more than half of the total number of adopted documents.

Supposedly, the autumn-winter session will be more productive, the following laws will be high on legislators' agenda:

- Law on State Budget for 2006;
- Law on Salaries and Indemnities for dignitaries and other employees in budgetary sector;
- modification of the Law on Local Public Administration and Law on Prosecutor's Office (which remained from the package of reforms solicited by PPCD), etc.

Also, lawmakers did not start yet the examination of the new Law on the Status of Chisinau Municipality, new Law on the Status of Public Officials and evaluation of their performances, Law on Central Public Administration, new Law on Cults and Law on Political Parties, etc. The public debate (promised by the President) on draft Education Code must start soon (only the draft law on higher education was published by press). The way those document would be developed and put forward for public debates would enable us to judge on the governors' openness and commitment to reform.

New municipal elections

Igor Botan, September 26, 2005

Democracy and governing in Moldova
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1. Timeliness of new elections

The Central Election Commission (CEC) unanimously decided on September 23 to convoke new local elections in 10 settlements, including the Chisinau municipality, on November 27. CEC passed this decision on an as democratic as possible way, taking into account paragraphs (m) and (n) of Article 22 of the Election Code regarding "consultation of parties and public organizations" for "plenary participation in the electoral process." The CEC sitting was really public, with participation of journalists, representatives of political parties and public organizations, as well as of the OSCE Mission to Moldova.

Although the CEC decision perfectly fits the international standards, norms of Moldova's electoral legislation, rulings of the Constitutional Court regarding election of local public administration bodies, there is an impression, however, that this decision is inopportune, especially as regards the Chisinau municipality.

International standards particularly envisage the strict need of periodical organization of elections. Under Article 1 of the Election Code, the periodicity of elections is ensured within mandatory "general elections" of any kind. There are detailed norms on terms for organization of "general elections", either parliamentary, or local polls. The same detailed norms envisage the establishing of eventual early parliamentary elections, which end an old phase and begin a new phase of periodicity of elections for the new Parliament elected for a 4-year period. This is a provision of Article 63 of Constitution.

As for local elections, the periodicity of elections is ensured by the 4-year mandate of local public administration bodies, which begins on the day of "general elections", being in effect for the entire community of local councils and mayors in Moldova. The Constitutional Court has passed a number of rulings aimed to clarify the way of election of local public administration bodies and to establish the strict duration of their mandates, after adoption of Moldovan Constitution in 1994 and after the first local elections conducted on its basis in 1995. Thus, two rulings of the Constitutional Court say that the 4-year mandate of local public administration bodies established through Article 119 (1) of the Election Code cannot be shortened or prolonged. Another two decisions based on Article 112 of Constitution say that the central administration authorities cannot name the local authorities if a mayoral office becomes vacant. Even more, the July 30, 2002 notice # 2 of the Constitutional Court opposed the intention of a group of 52 lawmakers to modify the Constitution, so that to allow local councils to elect mayors indirectly, an intention which perfectly complied with the European Charter Autonomous Exercise of Local Power, an international document which has priority over internal legislation after the Moldovan Parliament ratified it in 1998.

All the documents envisaged above indicate the need to elect local councils and mayors within local "general elections". Article 139 of the Election Code stipulates the organization of new election of councils and mayors in case of such a need. As for new elections of local councils, there were no major problems the past 10 years. There were very few cases of this kind. As regards new mayoral elections, such elections take place in 10-25 settlements a year throughout a 4-year mandate. The experience of new elections of mayors was satisfactory till the office of Chisinau mayor became vacant last spring, and new followed by repeated local elections failed.

Thus, if we speak about legal side of local elections in the Chisinau municipality, we observe that it was completely respected throughout current mandate: 1) citizens directly elected a mayor of Chisinau for a 4-year period on May 23, 2003; 2) early and, respectively, repeated elections took place on July 10 and 24 after the mayor elected in 2003 had stepped down, but they remained invalid because of the low turnout. Following questions appear under these conditions - how necessary the repeated new elections are, can the non-stop organization of new elections be avoided?

The answer may be based on the fact that the vacancy of mayoral office, regardless of its cause, always has an element of hazard and therefore the problem to elect the mayor must be treated through the opportunity to organize new elections or a deputy mayor must be ad-interim mayor. In this regard, before setting the new elections for November 27, CEC should call on the Parliament in order to try to persuade lawmakers to modify Article 139 of the Election Code, so that no election validation threshold of 1/3 participation rate be in effect for new elections or at least to eliminate it in case of repeated elections; to ask the legislature to interpret Article 139 of the Election Code on basis of Article 66 (c) of Constitution in a move to clarify how many times a settlement can organize new local elections throughout a 4 years mandate.

- a. If the legislature insists on the need to maintain at all costs the 1/3 participation rate threshold for validation of results of new local elections, this way giving them more legitimacy, it would be logical to apply Article 39 of the law on local public administration, which says that "a deputy mayor becomes mayor if the mayor steps down before term," after an eventual failure of new mayoral elections because of the low turnout, till expiration of mandate and convocation of local general elections. This approach would be in perfect compliance with provisions of Constitutional and electoral legislation of Moldova, as well as with Article 3.2 of the European Chart Autonomous Exercise of Local Power, which says that self-government "shall be exercised by councils or assemblies composed of members freely elected by secret ballot on the basis of direct, equal, universal suffrage, and **which may possess executive organs responsible to them**. This provision shall in no way affect recourse to assemblies of citizens, referendums or any other form of direct citizen participation where it is permitted by statute."
- b. If as many as needed new mayoral elections are to be organized, the barrier related to the mandatory participation rate threshold of minimum 1/3 out of the number of eligible citizens must be eliminated, at least for repeated elections after the failed new elections. This factor obstructed the validation of the July 10 early elections and July 24 repeated elections in Chisinau.

Both approaches would allow us to get rid of "electoral fibrillations" caused by eventual failed elections, which have nothing in common with the obligation of periodical elections and interest of citizens to have a local administration to protect their legitimate interests.

2. Interests of political parties

Leaders and representatives of political parties the Liberal Party (PL), Democratic Party (PD), Christian Democratic People's Party (PPCD), Party of Communists (PC), Social Liberal Party (PSL) have favored the establishing of data of new local elections in their speeches before CEC passed this decision.

However, attitudes and expectations of political parties regarding the scheduled elections, especially in Chisinau, are different. Although the summer period halted the participation last summer, the results of the July 10 new elections and July 24 repeated elections highlighted the rating of candidates of parties in Chisinau. This rating also indicates the interests of parties for new elections:

- a. The ruling PC can be sure that the rating of its candidate will remain at the highest level the next two months till election day, being credited with real chances to become winner in the 1st round or runoff vote. This would happen in spite of major economic difficulties which follow the rise of fuels prices and commercial sanctions introduced by the Russian Federation;
- b. The parties which are members of the so-called "constructive opposition" (PPCD, PC, PSL) gave green light to establishing of election day without much enthusiasm. It is more important for them to pressure the ruling party to fulfill its obligations within "national consensus" in order to register concrete accomplishments by the May 2007 local "general elections" than to spend financial and organizational resources in order to understand one more time that their rating is lower than usually. In this regard, the solution proposed by PPCD chairman Iurie Rosca at a televised program on PRO TV channel to let the municipal council confirm the ad-interim mayor can be understood. It is true that he did not specify that such a solution is proposed only for cases registered after the failure of new elections;
- c. The active opposition represented by Our Moldova Alliance seems to be interested the most in organization of new elections in Chisinau. AMN leader Serafim Urechean said after the failure of new and repeated elections last summer that he will bid for the mayor post. He has recently stated that "the idea of the PPCD leader to deprive the electorate of the right to elect mayors is a continuation of the communist anti-reform and a deviation from principles of European democracy." The interventions of Serafim Urechean against PCRM seem to be inspired. Permanent blaming of Moldova by the European Court of Human Rights continues on the western front. Russia's commercial sanctions against Moldova are on the eastern front. However, the participation of Serafim Urechean in the municipal elections in Chisinau is very risky. He must only win for eventuality to participate in the municipal elections in Chisinau. However, Urechean's resignation from the mayoral office last April with the declared goal "to promote the interests of citizens in the Parliament at national level," followed by change of this intention with only half a year later,

in order to come back to the Chisinau City Hall may lay serious obstacles on his way. He will have to give financial explanations as well - why millions of lei should be wasted because of him, public money, for these maneuvers of resignation-comeback to the Chisinau City Hall? Citizens may wonder whether an eventual victory of Serafim Urechean would mean the start of a new phase of the "cold war" between him and President Voronin.

- d. Parties with low rating are interested to participate in a new political show in order to keep the attention of voters.

These interests of political parties also highlight the problem of timeliness to hold new elections in the Chisinau municipality. Also, there are other problems regarding timeliness to organize elections:

- a. under amendments to the Election Code approved last July, preparations for the November 27 elections will take place during reformation of electoral bodies and CEC, and this contravenes the good practices recommended by the Venice Commission to avoid an essential change of rules during the electoral process;
- b. the Chisinau electorate may demonstrate tiredness and reticence over new elections after being convoked four times for voting in only 9 months (parliamentary elections on March 6; early local elections on July 10; repeated local election on July 24; new local elections on November 27). An eventual electoral activism of people who did not attend the elections last summer because of vacation could be combated by passivity of persons who voted in vain.
- c. some potential strong candidates may decide not to participate in the new elections because an eventual victory may rather harm their political career. Truly, does it make any sense for a strong opposition candidate to win the municipal elections with one year and half before general elections, on the eve of winter, which seems to be very difficult from energy point of view, without any certainty to enjoy the support and understanding of the municipal council?

All these causes taken together may have a negative impact on motivation of citizens to participate in elections.

3. What should voters do?

It may be supposed that electors in the Chisinau municipality are tired of invitations to cast their votes four times in only 9 months. However, they have nothing to do but to accept this situation and to use their constitutional right and obligation of citizen to cast their ballots. The best solution to the electoral tiredness is to make the Chisinau residents read or read again the extraordinary literary works of known writers Mihail Saltikov-Scedrin and Iaroslav Gasec - "The Story of a City" and, respectively, "Municipal Elections" in the new electoral period. Thus, the special pleasure is to persuade that "all is old and all is new", that means the present problems of the Chisinau municipality and their approach by politicians during electoral campaign are very similar to the ones faced by other cities from other meridians almost 100 years ago (and even more).

Noisy start of parliamentary session

Sergiu Grosu, October 11, 2005

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The parliament started the second annual session on October 6 after a vacation of more than two months. The long break of plenary sittings marked the lawmakers who had earlier actively participated in debates and hour of the government. Indeed, the parliamentary opposition representatives have started an offensive from the very beginning, mainly against executive and its institutions. Of neither course, nor bitter accusations against parliamentary majority and government in general were absent. Statements in this regard and appeals voiced by lawmakers at the first sitting envisaged the situation in agriculture sector. In addition, social-political, education, and health-related problems were tackled. Several of discussed drafts were received with reticence from the very beginning, before their detailed examination and hearing of stance of parliamentary commissions, so that those who refused first to support the proposals accepted them later, motivating the initial stance through an ardent state of spirit or lack of detailed explanations. The last objection was generated by insufficient quality of materials promoted by executive.

The parliamentary majority turned down the proposals of representatives of the Alliance Our Moldova to include in agenda several draft laws aimed to improve the legislative framework on taxation of agriculture and to maintain the facilitary VAT for some categories of goods. Also, no exact term when the executive must report on its activity and measures aimed at improvement of situation of farmers were established so far.

The ardent debates at the opening sitting were preceded by an introducing speech of speaker, who reviewed the accomplishments of the precedent session and outlined tasks for the autumn-winter session. He indicated among others the following priorities of parliamentary activity:

- elaboration of a legislative programme till 2009 and a programme on examination of drafts examined by the Council of Europe;
- organisation of parliamentary hearings on key national programmes (Economic Growth and Poverty Reduction Strategy Paper, governing programme, the European Union-Moldova Action Plan);
- promotion of parliamentary diplomacy in some key directions (cooperation with the E.U.; cooperation with the Russian Federation; strengthening of neighborhood relations; collaboration with the Baltics for elaboration of mechanism for adjustment of national legislation to community laws);
- elaboration and implementation of the concept on cooperation between legislature and civil society in a short term.

Lawmakers examined draft documents in one hour in the two days of opening sittings, spending the rest of time on tries to vote the withdrawal of immunity from certain opposition parliamentarians, questions, appeals, statements and ardent dialogues between representatives of opposition and parliamentary majority.

Decision for modification of the regulation on use of money from the agriculture sustenance fund. The decision establishes the possibility to award budgetary subsidies to businesses working in agriculture sector which took credits from commercial banks or different loan associations in 2001-04 and did not reimburse them in the due time or failed to pay all interests. The regulation says that agricultural producers who fulfil these obligations till December 31, 2005 can benefit from budgetary subsidies.

The regulation on awarding of subsidies establishes that producers who took credits can receive subsidies of maximum 125,000 lei in line with a special formula. As much as 30 million lei was allocated from the budget for this purpose. The adoption of this document was preceded by a negative stance of opposition representatives who invoked first the lack of information and insufficient transparency related to awarding of these subsidies. Most of lawmakers voted for adoption of this decision after receiving supplementary explanations and learning that the specialised commission has got a list with 140 debtor businesses, accepting to award subsidies of about 1.5 million lei to debtor enterprises.

Law on importation of an automobile. The importation of a specialised medical automobile (mobile machine for burning) manufactured in 1989 for needs of the traumatology hospital in Chisinau, without any right to sell it later, is allowed as exception through derogation from provisions of the November 20, 1197 law # 1380-XIII on customs duty.

It was said during talks that these modalities of promotion of imports by lawmakers as exceptions indicate some lobby trends and such drafts must come exclusively from the cabinet of ministers, which has possibilities and resources needed for an adequate examination of the problem and determination of the need to derogate from the organic law on customs duty.

We note in this regard that the parliament has already adopted 15 derogation laws in 2001-05 since introduction of interdiction against imports of cars older than 10 years, which allowed the importation of more than 35 vehicles for different destinations (medicine, power networks, firefighters, penitentiaries, etc.), older than established by law. According to competent specialists, the technical condition of automobiles imported on exceptional ways was not always satisfactory, while some of them unfit the necessary ecological requirements.

Starting 2006, the authorities plan to ban the importation of automobiles older than 7 years and this will increase the prices on auto market and will probably encourage a higher number of legislative documents adopted as exceptions for different public and social needs, but not for private needs.

Law for completion of Article 38 of the law on acquisition of goods, works and services for needs of the state. Under the law that the parliament passed in two readings at once, certain facilitary legislative conditions will be created for enterprises of Moldovan associations of blind, disabled and deaf people. Thus, the law on acquisitions (# 1166-XIII from April 30, 1997) includes regulations which allow working groups for acquisitions to apply a preferential margin of maximum 15 percent for goods, works and services of these enterprises while evaluating and

comparing the offers. Respectively, if these goods (service, work) will be produced by another domestic or foreign business and will cost by 15 percent less, public acquisition institutions will be allowed to choose the more expensive goods, assisting the economic activity of disabled people this way.

The official motivation of these modifications is the need to support these enterprises, which raised very large debts and are not competitive because they spend large amounts to arrange and create special work conditions for disabled people. These enterprises are exempted from a series of state taxes and fees every year, being awarded other facilities as well, which do not settle however all the problems related to their activity.

Draft law for modification and completion of the law on prevention and combat of money laundering and financing of terrorism. The draft adopted in the first reading stipulates the possibility to receive electronic reports and to create an electronic database on suspect deals and other types of bank transactions, which fall under incidence of the law on combat of money laundering (# 633-XV from November 15, 2001). Also, it proposes the liberalisation of control on transactions carried out by non-residents through bank cards issued in Moldova, while foreign competent bodies will have the possibility to control them in compliance with interstate agreements and other international documents on this sector. The declared goal of the last modifications is to attract foreign investments in Moldova and to improve the investment image of the country this way.

To outline in this regard that Moldovan president has told a recent forum with participation of local businessmen that the high interests on credits of Moldovan commercial banks do not encourage the economy and the authorities will find ways to invite foreign financial institutions to come with cheaper crediting sources, if the situation does not improve.

The law on combat of money laundering was approved at the recommendation of international organisations and it calls among other measures for issuing of special kits by financial institutions for any operation of individual worth more than 300,000 lei (23,800 dollars) and for any operation of business worth more than 500,000 lei (39,700 dollars), and to deliver these kits to the Centre for the Struggle Against Economic Crimes and Corruption (CCCEC) which can check the deals selectively or methodically.

The adoption of this law has provoked negative reactions from bank community and businessmen at the very beginning, fearing that it is too restrictive and does not encourage investments. The increase of the minimum share of operations for control was proposed later, but the parliament turned down this proposal. Although the law is in effect for four years, no detailed statistics on illegal sums whose legalisation was combated or discovered by CCCEC are available so far.

Declarations on internal policy

The parliamentary factions representing the Alliance Our Moldova (AMN) and Christian Democratic People's Party (PPCD) spoke out about policy of the executive at the end of the October 6 sitting. AMN contested the situation of agriculture, invoking as shortcomings the forced consolidation of fields, compromising of exports of agricultural production to Russia, acquisition of cereals for lower prices, limitation of exports of cereals through Commodity Exchange, etc. The government was urged to exempt farmers from land tax and contributions to the State Social Fund, to prolong the validity term of the 5-percent VAT for phytotechny and horticulture production till 2011, to create a cereals intervention fund, to compensate higher prices of oil products, etc.

PPCD invoked the difficult situation of agriculture and the failure of reforms in healthcare and education sectors. According to Christian Democrats, the current situation may compromise the executive and parliament and, therefore, the legislature must efficiently fulfil its control function, soliciting the cabinet of ministers to take some adequate measures and to hear information at public sittings.

The parliamentary majority turned down a proposal to discuss draft laws on tackled issues immediately and the speaker introduced the problem regarding withdrawal of juridical immunity from several lawmakers, at the request of prosecutor-general, as exception in agenda at the beginning of the October 7 sitting, in order to distort the attention of opposition and public opinion from such topics. The motivation of the urgent examination was the presentation of a report on this topic by the juridical commission for appointments and immunities, a report that the parliament is to accept or turn down the request within seven days after presentation in line with legislation in effect. The violation of the legal procedure, which says that the decision indicating grounded reasons to approve the request of the prosecutor-general is adopted with the vote of **"at least half plus one of its members"** (Article 10, Paragraph 2 of the law on status of parliamentarian) demonstrates that the competent commission was "hurried up" to unveil the report, and this situation provoked controversial talks at plenary sitting. The same article of the law says that the juridical commission for appointments and immunities must establish the existence of some grounded reasons for approval of the request of prosecutor-general **"within maximum 15 days"** after its reception from speaker. Taking into account the fact that the prosecutor's office tabled its request in early summer, the legal term for its examination has expired and the prosecutor-general must submit a new request.

The creation of the voting commission and secret voting for withdrawal of immunity was postponed for October 13 and we could observe the reaction of specialised international organisations in this regard till this date for sure. The recent resolution 1465 (2005) of the Parliamentary Assembly of the Council of Europe urges the Moldovan authorities to review the regulations and status of lawmaker which allow the **loss of immunity for political reasons**, as well as to reexamine **reasons of penal investigation against opposition leaders at central and local levels**.

Parliamentary Immunodeficient Syndrome

Sergiu Grosu, October 25, 2005

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The Communist majority faction, with the votes of 54 lawmakers, gave green light on October 13 to requests of prosecutor-general to try a group of deputies who represent the opposition faction of the Alliance Our Moldova (AMN), including leader Serafim Urechean, under Penal Code.

The voting was preceded by a plenary sitting with arden debates, with prosecutor-general being in situation of his clients and invoking the so-called "secret of investigation" more than once, when he was questioned in details. Also before voting, the majority faction of the Party of Moldovan Communists (PCRM) was left alone and all other parliamentary political parties publicly refused to cast their votes, a situation which was not registered in the parliament after March 6, 2005, when the acting governmental team received the trust vote of only 56 Communist lawmakers. The opposition representatives, except for AMN, unanimously recommended their accused colleagues "to openly go to the court in order to demonstrate their innocence there," rather than justified their actions.

The talks in the parliament outlined juridical aspects of mandate of lawmakers besides political problems, raising talks on immunities and inviolabilities awarded to deputies and other categories of public functionaries. On this occasion, some lawmakers recalled the idea to annul or to essentially limit the parliamentary immunity, while others invited colleagues to forget the slogans from electoral campaigns and to cooperate for deeper and better guarantees needed for promotion of political pluralism, by revising the legislation on functioning of prosecutor's office and courts.

We remind in the context that there were many tries at the precedent session of the parliament to promote the candidacy of Serafim Urechean to the Moldovan delegation to the Parliamentary Assembly of the Council of Europe (PACE), tries generated by tactical reasons and probably by fact that the status of lawmaker who is a PACE member awards international immunity that can be limited more hardly than the national immunity. Perhaps the failure of these tries and political developments at local level made the AMN leader say that he refuses the parliamentary immunity and complies with procedures of law enforcement bodies aimed to demonstrate his illegal actions.

This is a political statement without any juridical nature, since the immunity is a public law category in the modern constitutional acceptance, an imperative of mandate of parliamentarian, not a personal privilege which can be refused for a period. The immunity is effective throughout mandate of lawmaker and if the immunity is ceded, the mandate of deputy is given up, too, and there are many examples in this regard, even in neighboring countries.

This statement is effective for these cases despite of the fact that constitutional norms of Articles 70-71 protect lawmakers above all from persecutions against votes or opinions expressed during mandate, while the penal investigation vs. AMN representatives started before they have obtained the mandates of parliamentarians. It is important to mention here the mode of activity of prosecutor's office bodies which understand the "reasonable terms" of the Code of Penal Procedure in a special manner. Thus, the delivery of the case filed in late 2004 for "one illegal action" to the court was preceded by parliamentary elections, and the defendants received immunity then; by election of the chief of state, investiture of the cabinet of ministers, and resignation of Serafim Urechean from the post of mayor general of the Chisinau municipality.

These events altogether make the impression of some political pressures on AMN, and an ad-hoc TV survey carried out within a programme with the participation of Serafim Urechean confirmed this fact. This impression can be also based on withdrawal of immunity from AMN parliamentarians. The majority parliamentary faction took this action after the failed try to elect a new mayor of Chisinau last summer and before the new mayoral elections scheduled for late November.

Meanwhile, a series of not very good events for the Moldovan authorities took place: the European Court of Human Rights (ECHR) sentenced Moldova in case of another functionary of the Chisinau City Hall for holding him contrary to international legislation and norms; the PACE has recently passed a resolution on functioning of democratic institutions in Moldova, with a series of serious recommendations. The issue regarding examination of requests of the prosecutor-general seeking the trying of some lawmakers under Penal Code was included in agenda of the parliament as exception and with derogations from regulations in the area, with only two days after appearance of the PACE Resolution.

The normal question appearing here is why does the parliamentary majority need such talks and conflicts with political opponents from the so-called "active opposition" namely now? Why does it take such steps when the "national political consensus" seems to function, when European institutions and namely PACE salutes the accomplishments within this consensus, when PACE urges the Moldovan authorities to review regularities and provisions of the status of lawmaker which allow **the loss of immunity for political reasons**, as well as to reexamine **the reasons of penal investigation vs. opposition leaders**? More than that, the governance representatives know very well that European institutions pay an increased attention to aspects related to immunity of parliamentarians in monitored countries, and these institutions had earlier demanded explanations from the Chisinau authorities regarding the respect for democratic principles in the area.

The answer seems to be clear. First, the started work must be finished; this way the political and selective nature of penal investigation is recognised. Second, the recent PACE report on functioning of democratic institutions in Moldova indicates the independence of justice and its institutions, corruption among big problems. The withdrawal of immunity from AMN lawmakers may be regarded through this viewpoint, and authorities may say that they fight against corruption this way. However, the final can be different, depending on quality of evidence collected by

prosecutor's office in the case vs. Serafim Urechean. If the accusation is weak and its evidence envisages only the single episode related to purchase of ambulances, the

court may award victory to the former mayor-general, the justice would triumph and government would get through this situation by invoking eventually the fact that the Moldovan justice has tested its independence while the prosecutor's office must be reformed the way the "constructive opposition" demands.

However, the questions mentioned above may also comprise other components of the answer - the next PACE resolution on Moldova could appear after half a year and it is unknown how the majority and "constructive opposition" will cooperate then, especially when the last clauses of the April 4, 2005 agreement will be fulfilled the next several months (while the civil law rule says that "the sides return to the previous situation when the contract expires"). Respectively, the ruling party could be interested to return to the situation registered before April 4 but under new circumstances, when the two oppositions hate and accuse each other, while the leader of the "active opposition" is harassed, and this thing is nothing but a reproach against "constructive opposition", which failed a satisfactory result for an adequate treatment from law enforcement bodies for an opposition leader within the understanding with opposition, not only for those who hold an agreement with the governance.

As regards the relations between the two oppositions and their capacity of self-defense, it is worth to mention that leaders of the Christian Democratic People's Party (PPCD) knew how to resist to assaults on their immunity in the precedent legislature. The seven decisions of the parliament concerning the preliminary consent for trying on penal or conventional cause in 2001-2004 had no effects on viability of this political force. It is true that they had to handle a different situation, as the prosecutor's office filed the cases when they were lawmakers, so that it was easier to demonstrate the connection between votes and opinions and persecution. Anyway, the PPCD demonstrated that it does not suffer from parliamentary AIDS. AMN should demonstrate soon that it has enough forces to protect its immunity.

However, games with giving up parliamentary immunity must stop. It is well-known that there are tendencies to limit the immunity in countries with authentic democratic regimes, especially of parliamentary immunity, since inviolability often leads to irresponsibility. Limitation or annulment of immunity may have grave effects in countries which are part of the so-called "new democracies", where the lack of an independent and strongly consolidated juridical system is visible. Even more, common citizens may have a favorable perception of reduction of parliamentary immunity, so that it would be very hard to stop this process once it starts.